IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revision No.1972 of 2006

DATE OF DECISION: OCTOBER 10, 2006

Mela Singh and others

.....PETITIONERS

VERSUS

State of Punjab **.....RESPONDENT**

CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr.A.P.S.Deol, Advocate,
for the petitioners.
Mr.N.S.Gill, AAG, Punjab.

..

JUDGMENT

The petitioners have filed this criminal revision against the judgment dated 17.8.2006 passed by the Additional Sessions Judge (Adhoc), Fast Track Court, Bathinda, whereby the conviction of the petitioners recorded by the SDJM, Phul vide judgment dated 1.3.2006 under Sections 452/323/34 IPC was maintained. However, the sentence awarded to the petitioners under the said Sections was reduced.

2. In this case, the petitioners faced the trial in case FIR No.94 dated 16.10.2000 registered under Sections 452/323/34 IPC at Police Station Phul. Vide judgment dated 1.3.2006 passed by the trial Court, they were convicted under Sections 452, 323 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for a period of one year with fine of Rs.1000/- each and in default of payment of fine to further undergo rigorous imprisonment for one month. They were also sentenced to undergo rigorous imprisonment for a period of two years with fine of Rs.2000/- each

and in default of payment of fine to further undergo rigorous imprisonment for two months. On appeal, the sentence awarded to the petitioners was reduced by the Appellate Court from one year rigorous imprisonment to six months rigorous imprisonment under Sections 323/34 IPC and from two years rigorous imprisonment to six months rigorous imprisonment under Sections 452 IPC. However, the sentence of fine remained intact.

3. I have heard the counsel for the parties and gone through the judgments passed by both the Courts below.

4. Counsel for the petitioners contends that both the Courts below have erred in convicting the petitioners for the alleged offence. He further contends that the injuries on the person of PW1 are simple in nature and the same have been caused on non-vital part and as such these injuries fall within the ambit of Section 323 IPC only. Counsel also contends that both the Courts below have not properly appreciated and considered the facts and circumstances of the case while declining the benefit of probation to the petitioners. He prays that in the instant case, the petitioners deserve the benefit of probation. In this regard, he submitted that the petitioners are first offenders and have not been previously convicted. They have faced the protracted trial in this case for the last 6 years. They have already undergone two months' sentence. Counsel further submits that the petitioners belong to a poor family. In support of his contention, learned counsel for the petitioners relied upon a decision of the Supreme Court in State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand and others, (2004) 7 SCC 659 in which the accused convicted under Sections 324, 452 read with Section 34 IPC were ordered to be released on probation.

5. After hearing the counsel for the parties, I am of the opinion

that in the facts and circumstances of the case, it will be just, appropriate and reasonable to release the petitioners on probation. Undisputedly, the petitioners are not a previous convict. They have already undergone two months' of sentence and have faced the protracted trial for the last six years. They also belong to a poor family.

6. Keeping in view the aforesaid facts and circumstances of the case, the impugned judgment of conviction is maintained. However, the petitioners are ordered to be released on probation on their executing bond for a period of one year to the satisfaction of the trial Court. The petitioners will maintain peace and be of good behaviour during the period of probation.

7. With the aforesaid modification in the order of sentence, the revision stands disposed of.

October 10, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE